

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
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March 7, 2022

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Ratesetting

TO PARTIES OF RECORD IN APPLICATION 21-02-009:

This is the proposed decision of Administrative Law Judge Wilson. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's April 7, 2022 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ ANNE E. SIMON

Anne E. Simon

Chief Administrative Law Judge

AES:sgu

Attachment

Decision **PROPOSED DECISION OF ALJ WILSON** (Mailed 3/7/22)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of James Hankins, an individual, d/b/a Hankins Information Technology, for a certificate of public convenience and necessity to provide full facilities-based and resold competitive local exchange service throughout the service territories of Pacific Bell Telephone Company, Frontier California, Inc., Frontier Communications of the Southwest, Inc., Consolidated Communications of California Company, and Citizens Telecommunications Company of California, Inc. and full facilities-based and resold interexchange services on a statewide basis.

Application 21-02-009

DECISION GRANTING JAMES HANKINS, AN INDIVIDUAL, D/B/A HANKINS INFORMATION TECHNOLOGY A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE FULL FACILITIES-BASED AND RESOLD COMPETITIVE LOCAL EXCHANGE SERVICES AND FULL FACILITIES-BASED AND RESOLD INTEREXCHANGE SERVICES, BROADBAND INTERNET, VOICE-OVER-INTERNET SERVICE PROVIDER SERVICE AND DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

TABLE OF CONTENTS

Title	Page
DECISION GRANTING JAMES HANKINS, AN INDIVIDUAL, D/B/A HANKINS INFORMATION TECHNOLOGY A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE FULL FACILITIES-BASED AND RESOLD COMPETITIVE LOCAL EXCHANGE SERVICES AND FULL FACILITIES-BASED AND RESOLD INTEREXCHANGE SERVICES, BROADBAND INTERNET, VOICE-OVER-INTERNET SERVICE PROVIDER SERVICE AND DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER	
Summary	2
1. Background	2
2. Jurisdiction	4
3. Full Facilities-Based CPCN.....	5
4. California Environmental Quality Act (CEQA)	6
5. Financial Qualifications.....	10
6. Technical Qualifications.....	11
7. Tariffs	13
8. Map of Service Territory	13
9. Rule 3.1(i) Statement.....	14
10. Expected Customer Base.....	14
11. Environmental and Social Justice	14
12. Request for Treatment as a Non-Dominant Interexchange Carrier	15
13. Designation as an ETC	15
14. Request for Exemption from the Requirement to Keep its Books and Records in Accordance with the Uniform System of Accounts	20
15. Safety Considerations.....	20
16. Conclusion	21
17. Request to File Under Seal.....	22
18. Comments on Draft Decision	23
19. Assignment of Proceeding.....	23
Findings of Fact.....	23
Conclusions of Law	25
ORDER	30

Attachment A – Blank

Attachment B – Requirements Applicable to Competitive Local Exchange Carriers and Interexchange Carriers

Attachment C - Annual Report

Attachment D - Calendar Year Affiliate Transaction Report

**DECISION GRANTING JAMES HANKINS, AN INDIVIDUAL,
D/B/A HANKINS INFORMATION TECHNOLOGY A CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE FULL
FACILITIES-BASED AND RESOLD COMPETITIVE LOCAL EXCHANGE
SERVICES AND FULL FACILITIES-BASED AND RESOLD INTEREXCHANGE
SERVICES, BROADBAND INTERNET, VOICE-OVER-INTERNET SERVICE
PROVIDER SERVICE, AND DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER**

Summary

Pursuant to Public Utilities Code Section 1001, we grant James Hankins, an individual, d/b/a Hankins Information Technology, a certificate of public convenience and necessity to provide full facilities-based and resold competitive local exchange services and full facilities-based and resold interexchange services, and broadband internet and voice-over-internet service provider service and be designated as an Eligible Telecommunications Carrier in California subject to the terms and conditions set forth in the Ordering Paragraphs.

Application 21-02-009 is closed.

1. Background

On February 5, 2021, James Hankins, an individual, d/b/a Hankins Information Technology (Hankins IT or Applicant), a sole proprietorship located in California, filed an application for a certificate of public convenience and necessity (CPCN) to provide (i) full facilities-based and resold competitive local exchange services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T California), Frontier California Inc. (Frontier California), Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California (Frontier Communications), and Consolidated Communications of California Company (Consolidated Communications, formerly SureWest Telephone), (ii) full-facilities-based and resold interexchange services throughout California,

(iii) broadband internet and voice-over-internet service provider service, and (iv) be designated as an Eligible Telecommunications Carrier (ETC) in California. No parties protested the application.

Hankins IT proposes to provide competitive local exchange services to business and residential customers via existing facilities obtained from other carriers and utilities and by constructing its own facilities. Construction is expected to consist of relatively short conduit routes, installations of poles where existing facilities are inadequate, and installation or construction of other, small above-ground facilities. Construction generally would occur in existing roadways or other previously developed and disturbed rights-of-way.

Hankins IT's principal place of business is located at 777 1st Street, #250, Gilroy, CA 95020.

On February 8, 2021, Hankins IT moved for leave to file its financial showing under seal. On March 4, 2021, Hankins IT filed an amendment to its application, adding a request for designation as an Eligible Telecommunications Carrier (ETC) for certain census blocks within the area for which Applicant is seeking CPCN. Applicant also moved for leave to file a revised financial showing under seal.

On March 18, April 7, April 26, July 13, July 26, September 17, and September 21, 2021, the assigned Administrative Law Judge (ALJ) issued rulings requiring Hankins IT to file and serve additional information. Hankins IT filed and served responses on April 1, April 28, May 26, August 3, August 9, and October 1, 2021.

A prehearing conference (PHC) was held on March 25, 2021 to address the issues of law and fact, determine the need for hearing, set the schedule for

resolving the matter, and address other matters as necessary. Only the Applicant appeared at the PHC.

A Scoping Memo was issued on May 3, 2021. No hearings were held.

2. Jurisdiction

Public Utilities Code (Pub. Util. Code) § 216(a) defines the term “Public Utility” to include a “telephone corporation,” which in turn is defined in Public Utilities Code § 234(a) as “every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.”

Hankins IT proposes to provide infrastructure facilities (such as conduit and dark or lit fiber) for use in connection with the transmission of communications, including interconnected Voice over Internet Protocol (VoIP) and broadband data applications, such as Internet access. Hankins IT is a telephone corporation and a public utility subject to our jurisdiction.

Hankins IT provided certification that it is a Common Carrier as defined by § 153 of the Federal Telecommunications Act of 1996 (Act) eligible to interconnect with the public switched telephone network pursuant to § 251 and § 252 of the Act, and that if granted a CPCN, it will operate as a telephone corporation under Pub. Util. Code § 234(a), and obey the Pub. Util. Code and all Commission rules, decisions, and orders applicable to telephone corporations.

The Commission has authority to grant requests for designation of ETC status, pursuant to Resolution (Res.) T-17002; and in accordance with the federal delegation of authority set forth in the Communications Act in 47 United States Code (U.S.C.) § 214, which states in part:

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph [214I] (1) as an eligible telecommunications carrier for a service area designated by the State commission.

ETC status is normally requested from this Commission via an advice letter submitted to the Communications Division. In order to request ETC status, the applicant must hold a CPCN. During the PHC, the assigned ALJ authorized Hankins IT to request both a CPCN as well as ETC status in the instant application.

3. Full Facilities-Based CPCN

In its application, Hankins IT requests authorization for a CPCN to provide full facilities-based services. A Proponent's Environmental Assessment (PEA) is required for a full facilities-based CPCN. Hankins IT provided a PEA in Exhibit C to its Application.

In its PEA, Hankins IT intends to provide infrastructure facilities (such as conduit and dark or fiber infrastructure) for use in connection with the transmission of communications, including interconnected VOIP and broadband data applications, such as Internet access. Hankins IT plans on utilizing existing facilities from other utilities and will construct its own facilities as if required. Hankins IT proposes that such outside plant construction would likely be small in scale, consisting of construction of relatively short conduit routes, installations of a poles where existing facilities are inadequate, and installation or construction of other, small above-ground facilities; and would generally occur in existing roadways or other previously-developed and disturbed rights of way.

4. California Environmental Quality Act (CEQA)

Pursuant to CEQA and Rule 2.4¹ of the Commission's Rules of Practice and Procedure, the Commission examines projects to determine any potential environmental impacts in order that adverse effects are avoided and environmental quality is restored or enhanced to the fullest extent possible under CEQA.

In the PEA and Response, Hankins IT's proposed construction activities will generally include the construction of relatively short conduit routes, installations of poles where existing facilities are inadequate, and installation or construction of other, small above-ground facilities. Such construction generally would occur in existing roadways or other previously developed and disturbed rights-of-way.

These activities fall within the following classes of projects that are exempt from CEQA and for which neither an Environmental Impact Report nor a Negative Declaration is required.

- Class 1 Exemption: operation, repair, maintenance, leasing or minor alteration of existing public or private structures and facilities, with negligible or no expansion of an existing use. This includes existing facilities used to provide public utility services. (14 CCR § 15301.)
- Class 3 Exemption: construction including water main, sewage, electrical, gas and other utility extensions of reasonable length to serve such construction. This includes the construction of limited numbers of new small facilities or utility extensions. (14 CCR § 15303.)

Hankins IT's proposed activities involve construction of reasonably short utility extensions (Class 3). In order to provide its service, Hankins IT will install

¹ Unless otherwise noted, items labeled "Rule" are from the Commission's Rules of Practice and Procedure.

its conduit routes, poles, and other small above-ground facilities. The equipment will be placed in existing roadways or other previously developed and disturbed rights-of-way. Exemption of these activities is consistent with Commission precedent. Hankins IT's proposed new construction activities are similar to those undertaken by other carriers that we have decided are categorically exempt from CEQA. *See, e.g.,* Decision (D.) 06-04-063 (*ClearLinx Network Corporation*); D.06-04-067 (*CA-CLEC LLC*).

Hankins IT requests approval to utilize a procedure for expedited review of its projects once it is aware of a specific site(s) in which it plans construction. The proposed procedure tracks the expedited review procedure that we have approved for other carriers. Such a process will expedite CEQA review and is appropriate for the type of construction outlined here, which will be categorically exempt. By establishing this expedited review process, we are able to review the information on a specific project to confirm that it is categorically exempt from CEQA or to explain why further environmental review is required. At the same time, the proposed CEQA review process will enable Hankins IT to undertake construction of its projects in an efficient manner without experiencing delays caused by an unnecessarily protracted CEQA review.

Similar to the procedure approved for other carriers, the following procedure will be used to obtain Commission approval of Hankins IT's claimed CEQA exemptions for proposed construction projects:

- Hankins IT will provide the Commission's Energy Division with:
 - A detailed description of the proposed project, including:
 - Customer(s) to be served;
 - The precise location of the proposed construction project; and

- Regional and local site maps.
- A description of the environmental setting, to include at a minimum:
 - Cultural, historical, and paleontological resources;
 - Biological resources; and
 - Current land use and zoning.
- A construction workplan, to include:
 - Commission Preconstruction Survey Checklist – Archaeological Resources;
 - Commission Preconstruction Survey Checklist – Biological Resources;
 - A detailed schedule of construction activities, including site restoration activities;
 - A description of construction/installation techniques;
- A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
- A list of permits required for the proposed project.
- A statement of the CEQA exemption(s) applicable to the proposed project; and
- Documentation and factual evidence sufficient to support a finding that the claimed exemption(s) is (are) applicable.
- The Energy Division will review Hankins IT's submission for the proposed project to confirm that the claimed exemption(s) from CEQA are applicable.
- Within 21 days from the date of Hankins IT's submittal, the Energy Division will issue either:
 - A Notice to Proceed (NTP) and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research, or

- A letter of denial stating the specific reasons why the claimed exemption(s) are not applicable to the proposed project.

We have reviewed the application and Supplement and find that:

- Hankins IT's proposed facilities-based project activities are very limited;
- These activities would in almost all circumstances be very likely to qualify for an exemption from CEQA; and
- The proposed process for reviewing the applicability of CEQA exemptions to Hankins IT's facilities-based projects is not only adequate for the Commission's purposes as CEQA Lead Agency, but is also in the public interest because it enables Hankins IT to respond in a timely manner to requests for service without the delay or burden of a full CEQA review when such review is unnecessary.

We therefore approve Hankins IT's proposed process for Commission review of claimed CEQA exemptions for construction projects undertaken pursuant to Hankins IT's full facilities-based authority, based on the specific facts of this case with the following modifications related to the Commission's Energy Division review and approval or disapproval of the proposed exemptions.

If the Energy Division disapproves Hankins IT's claimed CEQA exemption(s) and issues a letter of denial to Hankins IT, Hankins IT must either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the Commission seeking the requisite approval and full CEQA review, before commencing any construction activities.

Hankins IT shall not perform any full facilities-based construction activities without first obtaining an NTP from the Energy Division or authorization by the Commission after the requisite environmental review.

We have previously determined that the public convenience and necessity require that competition be allowed in the provision of competitive local exchange service, Rulemaking 95-04-043/Investigation 95-04-044. Granting this application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the state.

5. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide full facilities-based and resold competitive local exchange services and full facilities-based and resold interexchange services must demonstrate that it has a minimum of \$100,000 cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up expenses. In response to ALJ inquiry, Hankins IT provided audited financial statements from 2019 and affirmed that its financial circumstances have remained stable since 2019. This financial documentation demonstrates that \$100,000 would be available to Hankins IT for one year following certification. Since Hankins IT has provided documentation that it possesses a minimum of \$100,000 that is reasonably liquid and available, it has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement. Hankins IT's financial documentation will be subject to verification and review by the Commission for one year to ensure that such funds are available.

In addition to demonstrating financial fitness, Hankins IT must also demonstrate that an amount equal to the deposit required by AT&T California, Frontier California, Frontier Communications, and Consolidated

Communications would be available to Hankins IT for one year following certification.² Hankins IT stated that no deposit is required by AT&T California, Frontier California, Frontier Communications, and Consolidated Communications. Therefore, no additional resources are required at this time to cover deposits.

6. Technical Qualifications

To be granted a CPCN for authority to provide competitive local exchange and interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.³ Hankins IT supplied biographical information on its management in Exhibit A to its application that demonstrates it has sufficient expertise and training to operate as a telecommunications provider.

In its application, Hankins IT verified that no one associated with or employed by Hankins IT as an affiliate, officer, director, partner, or owner of more than 10 percent of Hankins IT, or anyone acting in a management capacity for Hankins IT: (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been (to his/her knowledge) the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered

² The requirement for Competitive Local Carrier (CLC) applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers (LEC) and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

³ D.95-12-056 at Appendix C, Rule 4.A.

into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000 *et seq.*, §§ 17200 *et seq.*, or §§ 17500 *et seq.* of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; or (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; or (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general.⁴

Also, to the best of Hankins IT's knowledge, neither Hankins IT, or any affiliate, officer, director, partner, nor owner of more than 10% of Hankins IT, or any person acting in such capacity whether or not formally appointed, is being, or has been investigated by the Federal Communications Commission (FCC) or any law enforcement or regulatory agency for failure to comply with any law, rule or order.⁵

For the above reasons, we find that Hankins IT is in compliance with the requirements of D.13-05-035.

7. Tariffs

Hankins IT has requested detariffed status and may be exempt from the requirement to file tariffs provided that Hankins IT complies with the consumer protection rules identified in D.98-08-031. Hankins IT will offer residential voice services using VoIP technology. Applicant states that it plans to offer services on a non-discriminatory basis as well as individual case basis contracts.

⁴ These certifications are required by D.13-05-035, Ordering Paragraph 14.

⁵ *Id.*

Detariffed status is not available for carriers providing residential local exchange service. Based on the application, it does not appear that Hankins IT intends to provide residential local exchange service at this time. In the future, if Hankins IT decides to offer services that require a tariff, such as local exchange services for residential customers, Hankins IT must submit proposed tariffs and/or user guides to the Communications Division via Tier 2 advice letters using the General Order (GO) 96-B advice letter process at least 30 days before initiation of service.

8. Map of Service Territory

To be granted a CPCN for authority to provide competitive local exchange service, an applicant must provide a map of the service territories it proposes to serve.⁶ In its application, Hankins IT provided a map of the location of its proposed service territory, in compliance with this requirement.

9. Rule 3.1(i) Statement

Rule 3.1(i) sets forth the requirement that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding GO 104-A, Section 2. Hankins IT states that it is not aware of any reportable matters pursuant to GO 104-A, Section 2. Hankins IT, therefore, has nothing to report under this rule.

On a going forward basis, though, Hankins IT must file all reports required of a public utility under Commission jurisdiction.

10. Expected Customer Base

Hankins IT provided its estimated customer base and customer requirements for the first and fifth years of operation in Section XVI of its application. Therefore, Hankins IT has complied with this requirement.

⁶ D.95-12-056 at Appendix C, Rule 4.F.

11. Environmental and Social Justice

In its April 1, 2021 filing in response to ALJ inquiry, Hankins IT addressed how its operations are expected to impact achievement of the goals of the Commission's Environmental and Social Justice (ESJ) Action Plan.

Hankins IT notes that the communities it will serve under the Connect America Fund Phase II and Rural Digital Opportunities Fund programs have been identified by the FCC as high-cost, unserved or under-served rural areas. Hankins IT asserts that many residents in these areas are likely to have very low incomes and affirms that it will participate in the FCC's Lifeline program for low-income households. Further, Hankins IT states that it will offer its services to all individuals in these areas at rates that are reasonably comparable to those in lower-cost urban areas. Hankins IT's operations will thus advance the Commission's achievement of ESJ Action Plan Goal 3, which calls for the Commission to "Strive to improve access to high-quality water, communications, and transportation services for ESJ communities."

12. Request for Treatment as a Non-Dominant Interexchange Carrier

Applicant requests treatment as a non-dominant interexchange carrier, which would include exemption from the requirements of Pub. Util. Code §§ 816-830 concerning stocks and security and Pub. Util. Code § 851 concerning the encumbrance and transfer of utility property. While the Commission has granted exemption from Pub. Util. Code §§ 816 - 830 to others, exemption from Publ. Util. Code §§ 851 - 854 is not commonly granted and an exception is not warranted here. The Commission detailed its rules regarding exemption of non-dominant carriers in D.85-01-008, and subsequently modified in D.85-07-081 and D.85-11-044. We grant Applicant's request for non-dominant

interexchange carrier status, which provides an exemption from Pub. Util. Code §§ 816-830 concerning stocks and security, provided Applicant follows all rules detailed in the above referenced decisions.

13. Designation as an ETC

On February 7, 2020, the FCC adopted the Rural Digital Opportunity Fund (RDOF) program to build broadband in rural and unserved/underserved communities.⁷ The RDOF program will have a budget of approximately \$20.4 billion over the next ten years to support infrastructure with minimum broadband speeds of 25/3 Mbps. The RDOF program will assign funding in two phases – Phase I will target unserved communities, and Phase II will target partially served communities.⁸

On December 7, 2020, the FCC issued a Public Notice announcing the winning bidders for the RDOF Phase I Auction 904. There were 180 winning bidders nationwide in Auction 904. The award amount totals \$9.23 billion dollars over a 10-year period, with 5,220,833 locations covering 49 states and one territory. Over 99.7% in Auction 904 areas have bidders providing download speeds of at least 100 Mbps.⁹ California may receive up to \$695 million in RDOF awards, among 15 winning bidders.¹⁰

⁷ See *In the Matter of Rural Digital Opportunity Fund, Connect America Fund*, Report and Order, WC Dkts. 19-126 & 10-90, (FCC 20-5), released February 7, 2020.

⁸ *Id.*, at 3.

⁹ See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes, Winning Bidders Announced*, Public Notice, AU Dkt. 20-34, WC Dkts. 19-126 & 10-90, (DA 20-1422), released December 7, 2020.

¹⁰ *Id.*, Attachment B.

The FCC will also provide oversight of the projects whereby bidders are subject to penalties or forfeiture if they do not meet service milestones.¹¹ Bidders must meet deployment obligations in order to receive RDOF support. For example, carriers must commercially offer voice and broadband services to 40% of the locations receiving RDOF support within each state, as applicable, by the end of the three-year funding cycle, and then 20% of the locations each year thereafter until reaching 100%.¹²

Winning RDOF bidders must obtain an ETC designation in the state(s) where they seek support in order to receive federal funding. Hankins IT is among the 15 bidders that provisionally won RDOF awards in California. Hankins IT must satisfy all federal and state ETC requirements to receive an ETC designation. Staff conducted a due diligence review to determine Hankins IT's business practice behavior, financial capabilities, technical and operational capabilities, and customer protection that may call into question its fitness to be granted ETC designation to serve California consumers.

The Commission finds that Hankins IT meets the following federal and state ETC requirements:

- **Demonstration that the services intended to be offered to comply with the voice telephony definition** – Pursuant to 47 U.S.C. § 214(e)(1) and (6), a carrier must submit that on a common carrier basis, it will provide the functional equivalent of voice-grade calls using VoIP technology through its own facilities-based network/infrastructure or a combination of its own facilities and resale of another carrier's services. Hankins will offer residential VoIP telephony services with at least unlimited local calling and

¹¹ RDOF Order, paras. 45-55.

¹² RDOF Order, para. 45.

E911 service. Hankins IT will also offer federal Lifeline subsidies to qualifying low-income households.

- **Advertise using media of general distribution** – All ETCs must advertise the availability of voice and broadband services throughout their entire service areas.¹³ Hankins IT will advertise the availability of the supported services using media of general distribution.¹⁴
- **Commitment to provide supported service throughout the designated service area** – Hankins IT commits to provide service to all requesting customers within the areas that it is designated an ETC based on its own network facilities. However, the availability of service is contingent on the progress of the construction schedule. The carriers (in this case Hankins IT) are committed to the service milestones as determined and required by the RDOF program.¹⁵
- **Demonstration of ability to remain functional**¹⁶ – Hankins IT indicates that it can remain functional in emergency situations. Furthermore, the company will have 8 hours of battery backup power and deploy portable generators as needed. Hankins IT's network will have built-in redundancy.
- **Demonstration of financial and technical capability** – Hankins IT affirms that it is financially and technically capable of providing their proposed broadband Internet access and VoIP telephony services. Further, Hankins IT provided proof of financial surety sufficient to cover the difference between the possible RDOF award of \$2,171,845 and the buildout cost of the FCC-identified locations comprising the federal Commission's announced winning bid for the provider. Information contained in documents

¹³ See RDOF Order, para. 54.

¹⁴ Application Amendment at 5.

¹⁵ See RDOF Order, paras. 45-55.

¹⁶ See D.21-02-029.

filed under seal as “Confidential Attachment 4” gives proof of this surety.¹⁷ In addition, we find that the scale of expansion proposed by Hankins IT is managerially and operationally reasonable and feasible for the provider. We conclude this based on an assessment of its current operating service area and the applicable characteristics of the area, including the current number of Census blocks in which Hankins IT has both deployed service¹⁸, and has existing subscribers.¹⁹ These characteristics have been analyzed in relation to the provider’s proposed RDOF-subsidized service area²⁰ and required deployment “locations”²¹ under RDOF. We therefore reasonably conclude it is in the public interest to award to Hankins IT its requested ETC certification, based on our conclusion that the geographic and subscribership scale expansions proposed by the applicant may reasonably be achieved in the timeframe mandated by the RDOF Program.²²

- Commitment to meet public interest requirements for the proposed service areas – Hankins IT states that receiving

¹⁷ Hankins IT submitted a request to file this document under seal on 08/07/2021 (See Section 17, below).

¹⁸ The applicant’s existing service area, as of end-of-year 2019, is provided on the California Interactive Broadband Map maintained by the Communications Division of PUC. Public access is available to the map here: <http://www.broadbandmap.ca.gov>.

¹⁹ Confidential and proprietary broadband deployment and subscriber data is submitted to CPUC annually pursuant to the Communications Division’s *Request for Broadband Deployment and Subscription Data* Data Request (DR). Information on the Communications Division’s broadband data collection process is available online at: <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/broadband-mapping-program/guidelines-for-broadband-data-submission>.

²⁰ The California RDOF Map is available here: <https://www.broadbandmap.ca.gov/federalfunding>.

²¹ For a description of how the FCC determined RDOF Phase I (AU 904) locations eligible for funding: In the Matter of Rural Digital Opportunity Fund, Connect America; Report and Order, WC Docket No. 19-16, WC Docket No. 10-90, Report and Order, Rel. January 9, 2020.

²² RDOF timeframes for network buildouts are available here (47 CFR § 54.802; Rural Digital Opportunity Fund Order or RDOF Report and Order: <https://docs.fcc.gov/public/attachments/FCC-20-5A1.pdf>).

the ETC designation will serve the public interest by bringing high-speed broadband and voice services to unserved/underserved areas as identified by the RDOF. The company will offer all eligible locations access to gigabit broadband services and VoIP services.

- Commitment to satisfy all applicable consumer protection and service quality standards – Hankins IT commits to comply with all applicable state and federal consumer protection and service quality standards.

We approve Hankins IT's request for ETC to obtain federal high-cost support and LifeLine support, subject to authorization from the FCC on final approval of the RDOF award, and the following conditions:

- a. File required annual reports and compliance reports with the Commission, including FCC Form 481 and Section 54.314 certifications;
- b. Provide ad-hoc and recurring reports to the Commission as required by Pub. Util. Code Sections 581, 582 & 584;
- c. Submit information to the Universal Service Administrative Company (USAC), pursuant to 47 CFR § 54.401(d), demonstrating that its Lifeline service meets the FCC requirements. A copy of the information submitted to USAC shall also be provided to the Director of the Communications Division, within 30 days after filing with USAC at email ETCReportingtoStates@cpuc.ca.gov;
- d. Continue to comply with CPUC User Fee and surcharge remittance and reporting requirements. Failure to do so may result in enforcement action including penalties, fines, denial, suspension, and/or revocation of its ETC shall be designated;
- e. Contact the California LifeLine Program's Third-Party Administrator prior to offering federal VoIP Lifeline services and file Tier II Advice Letter with the Communications Division to provide terms and conditions, disclosures, and marketing materials, to the

- CPUC CD Staff for review and approval prior to dissemination, and/or availability to the public;
- f. Post safety related information about VoIP telephone service coverage limitations on distributed terms and conditions, disclosures, marketing materials, including scripts used by customer service representatives, and on its company website;
 - g. Abide by all applicable state and federal consumer protection rules, including CPUC GO 168, which is the Consumer Bill of Rights Governing Telecommunications Services;
 - h. To the extent applicable, if network facilities are located in Tier II and III High Fire Threat Districts (HFTD), carriers shall comply with D.21-02-029 to ensure network resiliency and have at least 72-hours of backup in these facilities to provide uninterrupted services to the Californians;
 - i. VoIP providers must maintain the 911 Automatic Location Identification (ALI) database so that a caller's registered address will be available to first responders;²³ and
 - j. Comply with all FCC RDOF program rules and regulations, including but not limited to service milestones, reporting requirements, and performance targets.

14. Request for Exemption from the Requirement to Keep its Books and Records in Accordance with the Uniform System of Accounts

Hankins IT requests that it be exempted from any requirement to maintain its books and records in accordance with the Uniform System of Accounts (USOA) specified in Title 47 I.E Part 32. Hankins IT asserts that it is not part of an ILEC corporate entity and should therefore be exempted from the requirement to keep its books of account in conformance with the USOA as we

²³ The Commission has the authority to regulate 9-1-1/E9-1-1 services regardless of what technology is used to provide the service.

did for all CLECs in D.99-02-038. We agree and cite D.07-04-024 as additional authority to do so.

15. Safety Considerations

With the adoption of the *Safety Policy Statement of the California Public Utilities Commission* on July 10, 2014, the Commission has, among other things, heightened its focus on the potential safety implications of every proceeding. We have considered the potential safety implications here. The Commission is satisfied that Hankins IT will meet the Commission's minimum safety goals and expectations of competitive local exchange carriers (CLECs) because:

(1) Hankins IT has taken steps to meet the financial requirements as set forth in this decision for a facilities-based CLEC, and (2) Hankins IT is a public utility that is required pursuant to Pub. Util. Code § 451 to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

16. Conclusion

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant Hankins IT a CPCN to provide (i) full facilities-based and resold competitive local exchange services in the service territory of AT&T California, Frontier California, Frontier Communications, and Consolidated Communications, (ii) full facilities-based and resold interexchange services in California, (iii) broadband internet and voice-over-internet service provider service, and (iv) be designated as an ETC in California, subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

The CPCN granted by this decision provides benefits to Hankins IT and corresponding obligations. Hankins IT receives authority to operate in the prescribed service territory, and this authority enables Hankins IT, pursuant to Section 251 of the 1934 Communications Act, as amended by the 1996 Telecommunications Act (47 U.S.C. § 251), to interconnect with telecommunications carriers.²⁴ This authority also enables Hankins IT to obtain access to public rights-of-way in California as set forth in D.98-10-058, and approved in *T-Mobile West LLC v. City and County of San Francisco*, 6 Cal. 5th 1107 (2019)” - subject to the CEQA requirements set forth in this decision.

In return, Hankins IT is obligated to comply with all Public Utilities Code provisions, Commission rules, General Orders, and decisions applicable to telephone corporations providing approved services. The applicable statutes, rules, General Orders, and decisions include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, Hankins IT is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in the Appendix B of this decision, to comply with CEQA, and to adhere to Pub. Util. Code § 451 which states that every public utility “. . . shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in § 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”

²⁴ The California Public Utilities Code uses the term “telephone corporation.” Its counterpart in federal law is a “telecommunications carrier.”

17. Request to File Under Seal

Pursuant to Rule 11.4 of the Commission's Rules of Practice and Procedure, Hankins IT has filed motions for leave to file Exhibits E to its Application and Amendment to the Application, Exhibits G and H to its Response to ALJ Ruling dated April 1, 2021, Attachment 1 to its Response to ALJ Ruling dated May 26, 2021, and Attachments 2, 3, and 4 to its Response to ALJ Ruling dated August 9, 2021, as confidential materials under seal as summarized in the table below.

Date Motion Filed (in 2021)	Documents Requested to be Filed Under Seal	Contents of Exhibit(s)
February 8	Application Exhibit E	Personal guaranty
March 4	Amendment to Application Exhibit E	Hankins IT Account statement
April 1	Application Exhibits G and H to its Response to ALJ Ruling	Hankins IT Long-form FCC application and non-audited financial statements
May 26	Attachment 1 to Response to its Response to ALJ Ruling	Hankins IT audited 2019 financial statements
August 9	Attachments 2,3 and 4 to its Response to ALJ Ruling	Hankins IT pro-forma projections, technological and network information, and personal financial information

Hankins IT represents that the information contained in these exhibits is sensitive, and disclosure could place Hankins IT at an unfair business disadvantage. We have granted similar requests in the past and do so here.

18. Comments on Draft Decision

The proposed decision of ALJ Seaneen Wilson in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice

and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

19. Assignment of Proceeding

Commission President Alice Reynolds is the assigned Commissioner and Seaneen McCarthy Wilson is the assigned ALJ in this proceeding.

Findings of Fact

1. Hankins IT is a telephone corporation and a public utility as defined in Pub. Util. Code § 234(a) and § 216(a).
2. The Commission is the Lead Agency for this project under CEQA.
3. Hankins IT's proposed construction activities appear to fall within one or more CEQA categorical exemptions.
4. Hankins IT's authority to provide telecommunications services will not have a significant adverse effect upon the environment.
5. Hankins IT has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.
6. No deposits are expected to be required by other telephone corporations in order to provide the proposed service.
7. Hankins IT's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.,
8. No one associated with or employed by Hankins IT as an affiliate, officer, director, partner, agent, or owner (directly or indirectly) of more than 10 percent of Hankins IT, or anyone acting in a management capacity for Hankins IT:
(a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been the subject of a

criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000 et seq., §§ 17200 et seq., or §§ 17500 et seq. of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; or (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; or (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general.

9. To the best of Hankins IT's knowledge, neither Hankins IT, or any affiliate, officer, director, partner, nor owner of more than 10 percent of Hankins IT, or any person acting in such capacity whether or not formally appointed, is being, or has been investigated by the FCC or any law enforcement or regulatory agency for failure to comply with any law, rule or order.

10. Hankins IT requested and is eligible for exemption from tariffing requirements and must observe the consumer protection rules adopted in D.98-08-031.

11. Hankins IT provided a map of the location of its proposed service territory.

12. Hankins IT has no information to report under Rule 3.1(i), which requires that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding compliance with GO 104-A, Section 2.

13. Hankins IT provided an estimate of its customer base and customer requirements for the first and fifth year of operation.

14. Hankins IT's proposed operations are consistent with the goals of the Commission's ESJ Action Plan.

15. Pursuant to Rule 11.4, Hankins IT filed motions for leave to file confidential materials under seal, including a personal guaranty, account statement, long-form FCC application, non-audited financial statements, and audited 2019 financial statements.

16. Hankins IT provided proof of financial surety sufficient to cover the difference between the possible RDOF award and buildout costs of the FCC-identified locations comprising the federal Commission's announced winning bid for Hankins IT.

17. The scale of expansion proposed by Hankins IT is managerially and operationally reasonable and feasible.

18. On February 7, 2020, the FCC adopted the RDOF Order program to build broadband in rural and unserved/underserved communities.

19. On December 7, 2020, the FCC issued a Public Notice announcing the winning bidders for the RDOF Phase I Auction 904. Hankins IT is among the 15 bidders that provisionally won RDOF awards in California.

20. Winning RDOF bidders must obtain an ETC designation in the state(s) where they seek support in order to receive federal funding.

Conclusions of Law

1. Hankins IT should be granted a CPCN to provide (i) full facilities-based and resold competitive local exchange services in the service territories of AT&T California, Frontier California, Frontier Communications, Consolidated Communications, (ii) full facilities-based and resold interexchange services in

California, (iii) broadband internet and voice-over-internet service provider service, and (iv) be designated as an ETC in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. Hankins IT should be allowed to use the Energy Division 21-day CEQA exemption process.

3. Hankins IT, once granted a CPCN, should be subject to the applicable Commission rules, decisions, GOs, and statutes that pertain to California public utilities.

4. Hankins IT, once granted ETC status, should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

5. Hankins IT should be granted an exemption from the requirement to file tariffs at this time.

6. In the future, if Hankins IT decides to offer services that require a tariff, such as local exchange services for residential customers, Hankins IT should submit proposed tariffs and/or user guides to the Communications Division via Tier 2 advice letters using the GO 96-B advice letter process before initiation of service.

7. Hankins IT's motions to file under seal its Exhibits E to the Application and Amendment to Application, Exhibits G and H to its April 1, 2021 Response to ALJ Ruling, Attachment 1 to its May 26, 2021 Response to ALJ Ruling, and Attachments 2, 3, and 4 to its August 9, 2021 Response to ALJ Ruling, should be granted pursuant to the Ordering Paragraphs herein.

8. Hankins IT should be granted non-dominant carrier status, subject to Commission rules and regulations as detailed in D.85-01-008 and modified in D.85-07-081 and D.85-11-044.

9. Hankins IT should be exempted from any requirement to maintain its books and records in accordance with the USOA specified in Title 47 I.E Part 32.

10. Hankins IT's request for an exemption from Pub. Util. Code § 851 should be denied.

11. Hankins IT should obtain a performance bond of at least \$25,000 in accordance with D.13-05-035.

12. Hankins IT should not allow its performance bond to lapse during any period of its operation.

13. The Commission has authority to grant requests for designation of ETC status, in accordance with the federal delegation of authority set forth in the Communications Act in 47 U.S.C. § 214.

14. Designating Hankins IT as an ETC is consistent with Res. T-17002.

15. Hankins IT satisfies the following federal and state ETC requirements in order to receive an ETC designation:

- a. Hankins IT demonstrates that the services intended to be offered comply with the voice telephony definition – Pursuant to 47 U.S.C. § 214(e)(1) and (6), a carrier must submit that on a common carrier basis, it will provide the functional equivalent of voice-grade calls using VoIP technology through its own facilities-based network/infrastructure or a combination of its own facilities and resale of another carrier's services.
- b. Hankins IT will advertise the availability of voice and broadband services throughout the entire service areas.
- c. Hankins IT commits to provide supported service throughout the designated service areas.
- d. Hankins IT demonstrates that it has the ability to remain functional in emergency situations.

- e. Hankins IT affirms that it is financially and technically capable of providing their proposed broadband Internet access and VoIP telephony services.
- f. Hankins IT commits to meeting public interest requirements for the proposed service areas.
- g. Hankins IT commits to satisfying all applicable state and federal consumer protection and service quality standards.

16. Hankins IT's request for ETC designation to obtain federal high-cost support and LifeLine support, subject to authorization from the FCC on final approval of the RDOF award, should be authorized herein with the following conditions:

- a. File required annual reports and compliance reports with the Commission, including FCC Form 481 and § 54.314 certifications;
- b. Provide ad-hoc and recurring reports to the Commission as required by Pub. Util. Code §§ 581, 582 and 584;
- c. Submit information to the USAC, pursuant to 47 CFR § 54.401(d), demonstrating that its Lifeline service meets the FCC requirements. A copy of the information submitted to USAC shall also be provided to the Director of the Communications Division, within 30 days after filing with USAC at email address ETC ReportingtoStates@cpuc.ca.gov;
- d. Continue to comply with CPUC User Fee and surcharge remittance and reporting requirements. Failure to do so may result in enforcement action including penalties, fines, denial, suspension, and/or revocation of its ETC be designated;
- e. Contact the California LifeLine Program's Third-Party Administrator prior to offering federal VoIP Lifeline services and file Tier II Advice Letter with the Communications Division (CD) to provide terms and conditions, disclosures, and marketing materials, to the

- CPUC CD Staff for review and approval prior to dissemination, and/or availability to the public;
- f. Post safety-related information about VoIP telephone service coverage limitations on distributed terms and conditions, disclosures, marketing materials, including scripts used by customer service representatives, and on its company website;
 - g. Abide by all applicable state and federal consumer protection rules, including CPUC GO 168, which is the Consumer Bill of Rights Governing Telecommunications Services;
 - h. To the extent applicable, if network facilities are located in Tier II and III HFTDs, comply with D.21-02-029 to ensure network resiliency and have at least 72-hours of backup in these facilities to provide uninterrupted services to the Californians; VoIP providers must maintain the 911 ALI database so that a caller's registered address will be available to first responders; and
 - i. Comply with all FCC RDOF program rules and regulations, including but not limited to service milestones, reporting requirements, and performance targets.
17. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to James Hankins, an individual, d/b/a Hankins Information Technology to provide (i) full facilities-based and resold competitive local exchange services in the territories of Pacific Bell Telephone Company d/b/a AT&T California, Frontier California Inc., Citizens Telecommunications Company of California, Inc. d/b/a/ Frontier Communications of California, and Consolidated Communications of California Company, (ii) full facilities-based and resold interexchange services in California, (iii) broadband internet and

voice-over-internet service provider service, and (iv) be designated as an Eligible Telecommunications Carrier in California, subject to the terms and conditions in this decision.

2. The request of James Hankins, an individual, d/b/a Hankins Information Technology to be designated as an Eligible Telecommunications Carrier (ETC) is granted, subject to authorization from the Federal Communications Commission (FCC) on final approval of the Rural Digital Opportunity Fund (RDOF) award, and with the following conditions:

- a. File required annual reports and compliance reports with the Commission, including FCC Form 481 and § 54.314 certifications;
- b. Provide ad-hoc and recurring reports to the Commission as required by PU Code §§ 581, 582 and 584;
- c. Submit information to the Universal Service Administrative Company (USAC), pursuant to 47 CFR § 54.401(d), demonstrating that its Lifeline service meets the FCC requirements. A copy of the information submitted to USAC shall also be provided to the Director of the Communications Division, within 30 days after filing with USAC at email address ETCReportingtoStates@cpuc.ca.gov;
- d. Continue to comply with the California Public Utilities Commission User Fee and surcharge remittance and reporting requirements. Failure to do so may result in enforcement action including penalties, fines, denial, suspension, and/or revocation of its ETC be designated;
- e. Contact the California LifeLine Program's Third-Party Administrator prior to offering federal Voice Over Internet Protocol (VoIP) Lifeline services and file Tier II Advice Letter with the Communications Division to provide terms and conditions, disclosures, and marketing materials, to the Commission's Communications Division Staff for

- review and approval prior to dissemination, and/or availability to the public;
- f. Post safety-related information about VoIP telephone service coverage limitations on distributed terms and conditions, disclosures, marketing materials, including scripts used by customer service representatives, and on its company website;
 - g. Abide by all applicable state and federal consumer protection rules, including GO 168, which is the Consumer Bill of Rights Governing Telecommunications Services;
 - h. To the extent applicable, if network facilities are located in Tier II and III High Fire Threat Districts, comply with Decision 21-02-029 to ensure network resiliency and have at least 72-hours of backup in these facilities to provide uninterrupted services to the Californians;
 - i. VoIP providers must maintain the 911 ALI database so that a caller's registered address is available to first responders; and
 - j. Comply with all FCC RDOF program rules and regulations, including but not limited to service milestones, reporting requirements, and performance targets.
3. The corporate identification number assigned to James Hankins, an individual, d/b/a Hankins Information Technology, U7386C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.
4. James Hankins, an individual, d/b/a Hankins Information Technology must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this decision. Written acceptance filed in this docket does not reopen the proceeding.
5. The certificate granted by this decision will expire if not exercised within 24 months of the effective date of this decision. If the applicant requires additional time to commence service, applicant must submit a request for an

extension of time to comply with a Commission decision by email or letter to the Executive Director at least five business days before the existing date for compliance pursuant to Rule 16.6 of the Commission's Rules of Practice and Procedure.

6. James Hankins, an individual, d/b/a Hankins Information Technology must notify the Director of the Communications Division of the date that competitive local exchange service is first rendered to the public, no later than five days after service first begins, by email to cdcompliance@cpuc.ca.gov.

7. James Hankins, an individual, d/b/a Hankins Information Technology (Hankins IT) must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (i.e., there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Hankins IT must submit a Tier-1 Advice Letter to the Communications Division, containing a copy of the license holder's executed bond, and submit a Tier-1 Advice Letter annually, but not later than March 31 of each year, with a copy of the executed bond.

8. James Hankins, an individual, d/b/a Hankins Information Technology must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

9. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachments B, C, and D to this decision, James Hankins, an individual, d/b/a Hankins Information Technology is subject to the Consumer Protection Rules contained in GO 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

10. James Hankins, an individual, d/b/a Hankins Information Technology (Hankins IT) must report intrastate revenue and pay the resulting public purpose program surcharges specified in Attachment B monthly, through the Commission's proprietary Telecommunications and User Fee Filing System (TUFFS) even if there are no revenues (\$0) and resulting surcharges to report and remit. Communications Division must issue a compliance directive to the Hankins IT primary contact, providing directions for reporting and remitting surcharges and the User Fee through the TUFFS system.

11. James Hankins, an individual, d/b/a Hankins Information Technology must pay an annual minimum user fee of \$100 or at the standard user fee remittance rate applied to the gross intrastate revenue, whichever is greater. The standard user fee remittance rate is posted on the Commission's webpage. Under Public Utilities Code § 405, carriers that are in default of reporting and submitting user fees more than 30 days after the quarterly user fee payment due dates of January 15th, April 15th, July 15th, and October 15th, or more than 30 days after the January 15th due date for those utilities paying the annual minimum user fee of \$100, will be subject to penalties including suspension or revocation of their authority to operate in California.

12. Prior to initiating service, James Hankins, an individual, d/b/a Hankins Information Technology must provide the Commission's Consumer

Affairs Branch with the name(s), address(es), e-mail address, and telephone number(s) of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name(s), address(es), or telephone number(s) change, or at least annually.

13. Prior to initiating service, James Hankins, an individual, d/b/a Hankins Information Technology must provide the Commission's Communications Division with the name(s), address(es), e-mail address, and telephone number(s) of its designated regulatory/official contact person(s). This information must be provided electronically, using the "Contact Information Request Update" form at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone> under Service Provider Requirements and Programs. This information must be updated if the name or telephone number changes, or at least annually by June 1 of each calendar year.

14. James Hankins, an individual, d/b/a Hankins Information Technology must submit an affiliate transaction report to the Director of the Communications Division, by email to cdcompliance@cpuc.ca.gov, in compliance with Decision (D.) 93-02-019, on a calendar year basis using the form contained in Attachment D.

15. James Hankins, an individual, d/b/a Hankins Information Technology must submit an annual report to the Director of the Communications Division, by email to cdcompliance@cpuc.ca.gov, in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

16. The staff of the Commission's Energy Division is authorized to review, process, and act upon James Hankins, an individual, d/b/a Hankins Information Technology's requests for a determination that its full

facilities-based construction activities are exempt from the requirements of the California Environmental Quality Act.

17. If James Hankins, an individual, d/b/a Hankins Information Technology (Hankins IT) wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental Quality Act (CEQA), Hankins IT shall first apply to the Commission's Energy Division staff for a determination of exemption from CEQA by providing the Commission's Energy Division (Energy Division) with:

- a. A detailed description of the proposed project, including:
 - i. Customer(s) to be served;
 - ii. The precise location of the proposed construction project; and
 - iii. Regional and local site maps.
- b. A description of the environmental setting, including at a minimum:
 - i. Cultural, historical, and paleontological resources;
 - ii. Biological resources; and
 - iii. Current land use and zoning.
- c. A construction workplan, including:
 - i. Commission Preconstruction Survey Checklist – Archaeological Resources;
 - ii. Commission Preconstruction Survey Checklist – Biological Resources;
 - iii. A detailed schedule of construction activities, including site restoration activities;
 - iv. A description of construction/installation techniques;
 - v. A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
 - vi. A list of permits required for the proposed project.

- d. A statement of the CEQA exemption(s) claimed to apply to the proposed project; and
- e. Documentation supporting the finding of exemption from CEQA.
- f. The Energy Division will then review the submittal and notify Hankins IT of either its approval or its denial of Hankins IT's claim for exemption from CEQA review within 21 days from the time that Hankins IT's submittal is complete.

18. If the Energy Division approves James Hankins, an individual, d/b/a Hankins Information Technology's (Hankins IT) claimed California Environmental Quality Act (CEQA) exemption(s), the staff shall prepare a Notice to Proceed and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research. If the Energy Division disapproves Hankins IT's claimed CEQA exemptions, the staff shall issue to Hankins IT a letter which states the specific reasons that the claimed CEQA exemptions do not apply to the proposed project.

19. If the Energy Division disapproves James Hankins, an individual, d/b/a Hankins Information Technology's (Hankins IT) claimed California Environmental Quality Act (CEQA) exemption(s), Hankins IT shall either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the Commission seeking the requisite approval and full CEQA review, before commencing any full facilities-based construction activities.

20. James Hankins, an individual, d/b/a Hankins Information Technology is granted an exemption from the requirement to file tariffs at this time.

21. In the future, if James Hankins, an individual, d/b/a Hankins Information Technology's (Hankins IT) decides to offer services that require a tariff, such as

local exchange services for residential customers, Hankins IT must submit proposed tariffs and/or user guides to the Communications Division via Tier 2 Advice Letters using the General Order 96-B Advice Letter process 30 days before initiation of service.

22. James Hankins, an individual, d/b/a Hankins Information Technology's request for an exemption from Public Utilities Code § 851 is denied.

23. James Hankins, an individual, d/b/a Hankins Information Technology's (Hankins IT) motions to file under seal its Exhibits E to the Application and Amendment to Application, Exhibits G and H to its April 1, 2021 Response to ALJ Ruling, Attachment 1 to its May 26, 2021 Response to ALJ Ruling, and Attachments 2, 3, and 4 to its August 9, 2021 Response to ALJ Ruling,, are granted for a period of three years after the date of this decision. During this three-year period, this information shall not be publicly disclosed except on further Commission order or ALJ ruling. If Hankins IT believes that it is necessary for this information to remain under seal for longer than three years, Hankins IT may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

24. Application 21-02-009 is closed.

This decision is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

This attachment is intentionally left blank.

(END OF ATTACHMENT A)

ATTACHMENT B

REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS

1. Applicant must file, in this docket with reference to this decision number,¹ a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

2. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 24 months of the date of this decision.

3. Applicant is subject to the following fees and surcharges that must be regularly remitted. Per the instructions in Exhibit E to Decision (D.) 00-10-028, carriers authorized to operate in California shall report intrastate revenue and remit the resulting public purpose program surcharges specified as follows monthly, through the Commission's proprietary Telecommunications and User Fee Filing System (TUFFS) even if there is no intrastate revenue (\$0) and resulting surcharges to report and remit. Communications Division shall issue a compliance directive to the carrier's primary contact, providing directions for reporting and remitting surcharges and the User Fee through TUFFS.

- a. The Universal Lifeline Telephone Service Trust
Administrative Committee Fund (Pub. Util. Code § 277);
- b. The California Relay Service and Communications Devices
Fund (Pub. Util. Code § 2881; D.98-12-073);

¹ Written acceptance filed in this docket does not reopen the proceeding.

- c. The California High-Cost Fund-A (Pub. Util. Code § 275.6); D.96-10-066, at 3-4, App. B, Rule 1.C);
- d. The California High-Cost Fund-B (Pub. Util. Code § 276.5), D.96-10-066, at 191, App. B, Rule 6.F.; D.07-12-054);
- e. The California Advanced Services Fund (Pub. Util. Code § 281; D.07-12-054);
- f. The California Teleconnect Fund (Pub. Util. Code § 280; D.96-10-066, at 88, App. B, Rule 8.G);
- g. The User Fee provided in Pub. Util. Code §§ 431-435. The minimum annual User Fee is \$100, as set forth in D.13-05-035.

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (d/b/a AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised. Current and historical surcharge rates can be found at

<https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees/surcharge-rates>.

- i. Carriers must report and remit CPUC telephone program surcharges online using the CPUC TUFFS. Information and instructions for online reporting and payment of surcharges are available at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees>. To request a user ID and password for TUFFS online filing and for questions, please e-mail Telcosurcharge@cpuc.ca.gov.
- ii. Carriers must submit and pay the PUC User Fee (see Item 3.g above) quarterly, through the Commission's TUFFS system within 15 days after the end of each calendar quarter (December 31, March 31, June 30 and September 30) and by the 30th day after the 15-day reporting and payment requirement to avoid a

one-time 25% penalty. For questions regarding the User Fee, please email userfees@cpuc.ca.gov.

4. If Applicant is a competitive local exchange carrier, the effectiveness of its future competitive local exchange carrier tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

5. If Applicant is a non-dominant interexchange carrier, the effectiveness of its future non-dominant interexchange carrier tariffs is subject to the requirement of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

6. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in Item 3 above.

7. Applicant must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Applicant must submit a Tier-1 Advice Letter to the Communications Division, containing a copy of the license holder's executed bond, and submit a Tier-1 Advice Letter annually, but not later than March 31, with a copy of the executed bond.

8. Applicant must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

9. Applicants providing local exchange service must submit a service area map as part of their initial tariff to the Communications Division.

10. Prior to initiating service, Applicant must provide the Commission's Consumer Affairs Branch with the name(s), address(es), e-mail address(es) and telephone number(s) of its designated contact person(s) for purposes of resolving consumer complaints. This information must be provided electronically, using the "Contact Information Request Update" form found at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone> under Service Provider Requirements and Programs. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually by June 1 of each calendar year.

11. In addition, Applicant must provide the Commission's Communications Division with the name(s), address(es), and telephone number(s) of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Contact Information Request Update" form found at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone> under Service Provider Requirements and Programs. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually by June 1 of each calendar year.

12. Applicant must notify the Director of the Communications Division, in writing submitted by email to cdcompliance@cpuc.ca.gov, no later than five days after service first begins, of the date that local exchange service is first rendered to the public.

13. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.

14. In the event Applicant's books and records are required for inspection by the Commission or its staff, it must either produce such records at the

Commission's offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to its office.

15. Applicant must submit an annual report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

16. Applicant must submit an affiliate transaction report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with D.93-02-019, on a calendar-year basis using the form contained in Attachment D.

17. Applicant must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

18. Within 60 days of the effective date of this order, Applicant must comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Communications Division of its compliance in writing, by email to cdcompliance@cpuc.ca.gov.

19. If Applicant is 90 days or more late in submitting an annual report, or in remitting the surcharges and fee listed in #3 above, and has not received written permission from the Communications Division to file or remit late: the Communications Division must issue a citation pursuant to Resolution T-17601. Failure to comply with the issued citation or timely appeal the citation may result in a revocation of the company's operating authority and/or a referral to the CPUC Consumer Protection and Enforcement Division (CPED) for enforcement action, which could result in additional fines, penalties, or other sanctions.

20. Applicant is exempt from Rule 3.1(b) of the Commission's Rules of Practice and Procedure.

21. Applicant is exempt from Pub. Util. Code §§ 816-830.

22. If Applicant decides to discontinue service or file for bankruptcy, it must immediately notify the Communications Division's Bankruptcy Coordinator.

23. Applicant must send a copy of this decision to concern local permitting agencies no later than 30 days from the date of this order.

(END OF ATTACHMENT B)

ATTACHMENT C ANNUAL REPORT

In addition to the annual reports requirement pursuant to General Order 104-A, submit the following information electronically via email to cdcompliance@cpuc.ca.gov no later than March 31st of the year following the calendar year for which the annual report is submitted.

Failure to submit this information on time may result in a penalty as provided for in Pub. Util. Code §§ 2107 and 2108.

1. Required information: Exact legal name and U # of the reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (*e.g.*, corporation, partnership, sole proprietorship, etc.).
If incorporated, specify:
 - a. Date of filing articles of incorporation with the Secretary of State.
 - b. State in which incorporated.
6. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.
9. List of all affiliated companies and their relationship to the utility. State if affiliate is a:
 - a. Regulated public utility.
 - b. Publicly held corporation.
10. Balance sheet as of December 31st of the year for which information is submitted.
11. Income statement for California operations for the calendar year for which information is submitted.
12. Cash Flow statement as of December 31st of the calendar year for which information is submitted, for California operations only.

For any questions concerning this report, please send an email to cdcompliance@cpuc.ca.gov with a subject line that includes: "CD Annual Reports."

(END OF ATTACHMENT C)

ATTACHMENT D CALENDAR YEAR AFFILIATE TRANSACTION REPORT

Submit the following information electronically via e-mail to cdcompliance@cpuc.ca.gov no later than May 1st of the year following the calendar year for which the annual affiliate transaction report is submitted.

1. Each utility must list and provide the following information for each affiliated entity and regulated subsidiary that the utility had during the period covered by the Annual Affiliate Transaction Report.

- Form of organization (*e.g.*, corporation, partnership, joint venture, strategic alliance, etc.);
- Brief description of business activities engaged in;
- Relationship to the utility (*e.g.*, controlling corporation, subsidiary, regulated subsidiary, affiliate);
- Ownership of the utility (including type and percent ownership)
- Voting rights held by the utility and percent; and
- Corporate officers.

2. The utility must prepare and submit a corporate organization chart showing any and all corporate relationships between the utility and its affiliated entities and regulated subsidiaries in #1 above. The chart must have the controlling corporation (if any) at the top of the chart, the utility and any subsidiaries and/or affiliates of the controlling corporation in the middle levels of the chart, and all secondary subsidiaries and affiliates (*e.g.*, a subsidiary that in turn is owned by another subsidiary and/or affiliate) in the lower levels. Any regulated subsidiary must be clearly noted.

3. For a utility that has individuals who are classified as “controlling corporations” of the competitive utility, the utility must only report under the requirements of #1 and #2 above any affiliated entity that either (a) is a public utility or (b) transacts any business with the utility filing the annual report excluding the provision of tariff services.

4. Each annual report must be signed by a corporate officer of the utility stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

5. Any required material that a utility is unable to provide must be reasonably described and the reasons the data cannot be obtained, as well as the efforts expended to obtain the information, must be set forth in the utility's Annual Affiliate Transaction Report and verified in accordance with Section I-F of Decision 93-02-019.

6. Utilities that do not have affiliated entities must submit, in lieu of the annual transaction report, an annual statement to the Commission stating that the utility had no affiliated entities during the report period. This statement must be signed by a corporate officer of the utility, stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

For any questions concerning this report, please send an e-mail to cdcompliance@cpuca.ca.gov with a subject line that includes: "CD Annual Reports."

(END OF ATTACHMENT D)